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SENATE BILL 32

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Joseph J. Carraro

AN ACT

RELATING TO EDUCATION; REQUIRING READING PROFICIENCY PRIOR TO  
PROMOTION TO THE FOURTH GRADE; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-2C-6 NMSA 1978 (being Laws 1986,  
Chapter 33, Section 7, as amended) is amended to read:

"22-2C-6. REMEDIATION PROGRAMS--PROMOTION POLICIES--  
RESTRICTIONS.--

A. Remediation programs, academic improvement  
programs and promotion policies shall be aligned with  
alternative school-district-determined assessment results and  
requirements of the assessment and accountability program.

B. Local school boards shall approve school-  
district-developed remediation programs and academic  
improvement programs to provide special instructional

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1 assistance to students in grades one through eight who fail to  
2 attain adequate yearly progress. The cost of remediation  
3 programs and academic improvement programs shall be borne by  
4 the school district. Remediation programs and academic  
5 improvement programs shall be incorporated into the school  
6 district's educational plan for student success and filed with  
7 the department.

8 C. The cost of summer and extended day remediation  
9 programs and academic improvement programs offered in grades  
10 nine through twelve shall be borne by the parent; however,  
11 where parents are determined to be indigent according to  
12 guidelines established by the [~~state board~~] department, the  
13 school district shall bear those costs.

14 D. Diagnosis of weaknesses identified by a  
15 student's academic achievement may serve as criteria in  
16 assessing the need for remedial programs or retention.

17 E. A student who fails to read proficiently by the  
18 end of the third grade shall not be promoted to the fourth  
19 grade until the student reads proficiently, except that the  
20 provisions of this subsection shall not apply to a  
21 developmentally disabled student learning to read in accordance  
22 with a developmentally appropriate plan approved by a licensed  
23 school employee.

24 [~~E.~~] F. A parent shall be notified no later than  
25 the end of the second grading period that his child is failing

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1 to make adequate yearly progress, and a conference consisting  
2 of the parent and the teacher shall be held to discuss possible  
3 remediation programs available to assist the student in  
4 attaining adequate yearly progress. Specific academic  
5 deficiencies and remediation strategies shall be explained to  
6 the student's parent and a written plan developed containing  
7 timelines, academic expectations and the measurements to be  
8 used to verify that a student has overcome his academic  
9 deficiencies. Remediation programs and academic improvement  
10 programs include tutoring, extended day or week programs,  
11 summer programs and other research-based models for student  
12 improvement.

13 ~~[F-]~~ G. Except as provided in Subsection E of this  
14 section, at the end of grades one through seven, three options  
15 are available, dependent on a student's adequate yearly  
16 progress:

17 (1) the student has made adequate yearly  
18 progress and shall enter the next higher grade;

19 (2) the student has not made adequate yearly  
20 progress and shall participate in the required level of  
21 remediation. Upon certification by the school district that  
22 the student has made adequate yearly progress, he shall enter  
23 the next higher grade; or

24 (3) the student has not made adequate yearly  
25 progress upon completion of the prescribed remediation program

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1 and upon the recommendation of the teacher and school principal  
2 shall either be:

3 (a) retained in the same grade for no  
4 more than one school year with an academic improvement plan  
5 developed by the student assistance team in order to meet  
6 adequate yearly progress, at which time the student shall enter  
7 the next higher grade; or

8 (b) promoted to the next grade if the  
9 parent refuses to allow his child to be retained pursuant to  
10 Subparagraph (a) of this paragraph. In this case, the parent  
11 shall sign a waiver indicating his desire that the student be  
12 promoted to the next higher grade with an academic improvement  
13 plan designed to address specific academic deficiencies. The  
14 academic improvement plan shall be developed by the student  
15 assistance team outlining timelines and monitoring activities  
16 to ensure progress toward overcoming those academic  
17 deficiencies. Students failing to make adequate yearly  
18 progress at the end of that year shall then be retained in the  
19 same grade for no more than one year in order to have  
20 additional time to master the required content standards.

21 [~~G.~~] H. At the end of the eighth grade, a student  
22 who fails to make adequate yearly progress shall be retained in  
23 the eighth grade for no more than one school year to make  
24 adequate yearly progress or if the student assistance team  
25 determines that retention of the student in the eighth grade

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1 will not assist the student make adequate yearly progress, the  
2 team shall design a high school graduation plan to meet the  
3 student's needs for entry into the work force or a post-  
4 secondary educational institution. If a student is retained in  
5 the eighth grade, the student assistance team shall develop a  
6 specific academic improvement plan that clearly delineates the  
7 student's academic deficiencies and prescribes a specific  
8 remediation plan to address those academic deficiencies.

9 [H.] I. A student who fails to make adequate yearly  
10 progress for two successive school years shall be referred to  
11 the student assistance team for placement in an alternative  
12 program designed by the school district. Alternative program  
13 plans shall be filed with the department.

14 [F.] J. Promotion and retention decisions affecting  
15 a student enrolled in special education shall be made in  
16 accordance with the provisions of the individual educational  
17 plan established for that student.

18 [J.] K. For the purposes of this section:

19 (1) "academic improvement plan" means a  
20 written document developed by the student assistance team that  
21 describes the specific content standards required for a certain  
22 grade level that a student has not achieved and that prescribes  
23 specific remediation programs such as summer school, extended  
24 day or week school and tutoring;

25 (2) "alternative school-district-determined

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1 assessment results" means the results obtained from student  
2 assessments developed by a local school board and conducted at  
3 an elementary grade level or middle school level;

4 (3) "educational plan for student success"  
5 means a student-centered tool developed to define the role of  
6 the academic improvement plan within the school district that  
7 addresses methods to improve a student's learning and success  
8 in school and that identifies specific measures of a student's  
9 progress; and

10 (4) "student assistance team" means a group  
11 consisting of a student's:

- 12 (a) teacher;
- 13 (b) school counselor;
- 14 (c) school administrator; and
- 15 (d) parent."

16 Section 2. APPROPRIATION.--Ten million dollars  
17 (\$10,000,000) is appropriated from the general fund to the  
18 public education department for expenditure in fiscal year 2006  
19 to fund reading enhancement in grades one through three in the  
20 public schools. Any unexpended or unencumbered balance  
21 remaining at the end of fiscal year 2006 shall revert to the  
22 general fund.

23 Section 3. EFFECTIVE DATE.--The effective date of the  
24 provisions of this act is July 1, 2005.